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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,830	05/22/2001	John Gregory Schroeder	AA471	8865

27752 7590 07/10/2008
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EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1796

NOTIFICATION DATE	DELIVERY MODE
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07/10/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 09/862,830	Applicant(s) SCHROEDER ET AL.	
	Examiner Lorna M. Douyon	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,31 and 34-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,31 and 34-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 17, 2008 has been entered.
2. Claims 1-2, 31, 34-42 are pending.
3. The objection to claim 33 under 37 CFR 1.75 as being a substantial duplicate of claim 2 is withdrawn in view of Applicants cancellation of this claim.
4. **Claim 2** is objected to because of the following informalities: this claim does not end with a period. Appropriate correction is required.
5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 1-2, 34-42 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Cheok et al. (US Patent No. 5,746,353), hereinafter "Cheok" in view of Vinson et al. (US Patent 6,015,781), hereinafter "Vinson", in further view of Trinh et al. (US Patent

No. 5,207,933), hereinafter "Trinh '933" for the reasons set forth in the previous office action and which is repeated below for Applicants' convenience.

Cheok teaches a portable laundry detergent dispensing system which is divided into three holding containers, one for liquid detergent, one for powdered detergent and one for liquid fabric softener, and the center back compartment is a storage compartment for a measuring cup and other laundry accessories, wherein the powder dispenser is a cylindrical dump cup having an opening therein which allows a fixed amount of the solid detergent to flow into a measuring cup and the liquid detergents and softeners are dispensed with a fixed volume hand pump assembly (equivalent to a pour spout) (see abstract). The dispensing system has a plastic light weight case and a plastic cover (see col. 2, lines 55-59) and in Figure 2 it is shown that the holding containers are each in the shape of a bottle. Like all articles of commerce, the dispensing system contains a brand name. Cheok, however, fails to specifically disclose the liquid or powdered detergent, and the liquid fabric softener as having a coordinated element, i.e., perfume which provides a consistent, additive and/or synergistic odor on a treated fabric article.

Vinson teaches a granular or liquid detergent composition (see col. 64, lines 41-44) to be used in automatic laundry washing machines (see col. 61, lines 52-54) which comprises perfumes which include aldehydes, ketones, natural extracts and essences such as orange oil, lemon oil, rose extract and patchouli, among others (see col. 62, lines 44-58).

Trinh '933 teaches fabric conditioning compositions, preferably in liquid form, for use in the rinse cycle of home laundry operations (see abstract) which comprises perfumes (see col. 5, line 54 to col. 6, line 53). Examples of perfumes include materials such as aldehydes and patchouli alcohol (see col. 24, lines 1-19).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to fill the holding containers of the dispensing system of Cheok with a powdered or liquid laundry detergent composition of Vinson which contains perfume like aldehydes or patchouli and a liquid fabric softener of Trinh '933 which contains perfume like aldehydes or patchouli because the dispensing system of Cheok is designed for storing and dispensing liquid or powdered laundry detergent as well as liquid fabric softener and the products of Vinson and Trinh falls into those categories, and the perfume of Vinson and Trinh '933 being similar would have provided a consistent, additive and/or synergistic odor on a treated fabric article.

7. Claims 1-2, 34-42 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Vinson in view of Trinh '933 for the reasons set forth in the previous office action and which is repeated below for Applicants' convenience.

Vinson teaches a granular or liquid detergent composition (see col. 64, lines 41-44) to be used in automatic laundry washing machines (see col. 61, lines 52-54) which comprises perfumes which include aldehydes, ketones, natural extracts and essences such as orange oil, lemon oil, rose extract and patchouli, among others (see col. 62, lines 44-58). Commercially marketed executions of the compositions can be packaged

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in any suitable container including those constructed from paper, cardboard, plastic materials and any suitable laminates (see col. 68, lines 44-49). It is also understood that the package made from cardboard is provided with a measuring cup as widely seen in cardboard detergent packages, and the plastic containers provided with a pour spout for ease of pouring as widely seen in plastic detergent containers, as well as a brand name. Vinson, however, fails to specifically disclose a kit comprising the above package with a liquid fabric conditioning composition in a bottle having a coordinated element, i.e., perfume which provides a consistent, additive and/or synergistic odor on a treated fabric article.

Trinh '933 teaches fabric conditioning compositions, preferably in liquid form, for use in the rinse cycle of home laundry operations (see abstract) which comprises perfumes (see col. 5, line 54 to col. 6, line 53). Examples of perfumes include materials such as aldehydes and patchouli alcohol (see col. 24, lines 1-19). It is understood that the liquid fabric conditioning composition is packaged for commercial use in a plastic bottle container provided with a pour spout. Likewise, the package should include instructions for use and also a brand name.

It would have been obvious to one of ordinary skill in the art at the time the invention was made combine the detergent package of Vinson which contains perfume like aldehydes or patchouli with liquid fabric softener package of Trinh '933 which contains perfume like aldehydes or patchouli in a common package because it is notoriously known to use the laundry detergent and fabric softener together, and considering the products contain similar perfumes, a consistent, additive and/or

synergistic odor on a treated fabric article would have been effected with their combination, during use.

8. Claims 1, 31, 34-42 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Vinson in view of Trinh et al. (US Patent No. 5,552,378), hereinafter Trinh '378 for the reasons set forth in the previous office action and which is repeated below for Applicants' convenience.

Vinson teaches the features as described above. Vinson, however, fails to specifically disclose a kit comprising the above package with a dryer composition in a box having a coordinated element, i.e., perfume which provides a consistent, additive and/or synergistic odor on a treated fabric article.

Trinh '378 teaches a dryer added fabric conditioning article comprising a rayon nonwoven fabric substrate and a fabric conditioning composition comprising Perfume C (see col. 19, lines 10-26). The major ingredients of Perfume C include materials such as aldehydes and patchouli alcohol (see col. 24, lines 1-19). It is understood that the dryer added fabric conditioning article is packaged for commercial use in a box. Likewise, the package should include instructions for use and also a brand name.

It would have been obvious to one of ordinary skill in the art at the time the invention was made combine the detergent package of Vinson which contains perfume like aldehydes or patchouli with a dryer added fabric conditioning article of Trinh '378 which contains perfume like aldehydes or patchouli in a common package because it is notoriously known to use the laundry detergent and dryer added fabric conditioning

article, and considering the products contain similar perfumes, a consistent, additive and/or synergistic odor on a treated fabric article would have been effected with their combination, during use.

Response to Amendment

9. The declaration under 37 CFR 1.132 filed January 17, 2008 is insufficient to overcome the rejection based upon each of:

- (a) Cheek in view of Vinson in further view of Trinh '933"
- (b) Vinson in view of Trinh '933
- (c) Vinson in view of Trinh '378

as set forth in the last Office action, and which is repeated above, because: it is not commensurate in scope with the claims and they are not compared with the close prior art of record. Applicants compared GAIN® laundry detergent and GAIN® liquid fabric softener wherein: in **Run A** fabrics were laundered in both having a coordinated perfume: in **Run B**, only the liquid fabric softener has the same perfume as Run A and the laundry detergent has no perfume; in **Run C**, only the laundry detergent has the same perfume as Run A and the fabric softener has no perfume; and in **Run D**, both has no perfume.

First of all, Applicants claim a kit for caring for a fabric article comprising (a) a laundry detergent composition and (b) a fabric treatment composition which is either a liquid fabric conditioning composition, or a dryer sheet composition having limitations on the container and dispensers as those recited, in particular wherein the laundry

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detergent composition and the fabric treatment composition comprise perfume as the coordinated element. The showing is only towards laundry detergent and liquid fabric softener. No showing is shown for the dryer sheet composition, which is also claimed. Also, no details as to the container or dispenser, e.g. cardboard, bottle, pour spout, measuring cup, is provided.

Secondly, the perfume used was identified as perfume AC and no specific perfume ingredients are disclosed.

Also, each of the 3 separate prior art of record, as discussed in paragraphs 6-8 above, teaches perfume in the laundry detergent, liquid fabric softener or dryer sheet, respectively and the perfume used have at least one same ingredient, even though the references are combination references.

Even though Applicants have shown additive and synergistic effects for Run A, Applicants failed to compare Run A with those of the prior art of record, i.e., where both the laundry and fabric softener have similar perfumes. If Applicants intended to show a synergistic effect when the perfume in the laundry detergent composition is the same as the perfume in the fabric softener, then Applicants should have also shown the effect when the laundry detergent and fabric softener has at least one common perfume, as taught by the prior art, or when the perfumes used in both are different, to make a meaningful comparison.

Response to Arguments

10. Applicants' arguments filed January 17, 2008 have been fully considered but they are not persuasive.

With respect to the rejection based upon Cheok in view of Vinson in further view of Trinh '933, and the rejection based upon Vinson in view of Trinh, Applicants argue that the combination of references does not teach or suggest the use of perfume as a coordinating element, and that the obviousness argument is overcome by the showing of unexpected results from the attached Morgan Declaration, which Applicants submit that the present invention provides for surprising benefits including additive and synergistic effects obtained by using perfume as a coordinated element.

The Examiner respectfully disagrees with the above arguments because of the same reasoning as set forth in paragraphs 6-8 above. The response to the declaration in paragraph 9 above applies here as well.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Lorna M Douyon/
Primary Examiner, Art Unit 1796